Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Service Rules for the 698-746, 747-762 and 777-792 MHz Bands	)	WT Docket No. 06-150
	)	
Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems	)	CC Docket No. 94-102
	)	
Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones	)	WT Docket No. 01-309
	)	
Biennial Regulatory Review – Amendment of Parts 1, 22 24, 27, and 90 to Streamline and Harmonize Various Rules Affecting Wireless Radio Services	)	WT Docket No. 03-264
	)	
Former Nextel Communications, Inc. Upper 700 MHz Guard Band Licenses and Revisions to Part 27 of the Commission's Rules	)	WT Docket No. 06-169
	)	
Implementing a Nationwide, Broadband Interoperable Public Safety Network in the 700 MHz Band	)	PS Docket No. 06-229
	)	
Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010	)	WT Docket No. 96-86

To: The Commission

COMMENTS OF
GEOCOMMAND, INC.

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May 22, 2007

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SUMMARY

The Report and Order and Further Notice of Proposed Rulemaking in the captioned proceeding covers a broad range of issues relevant to the 700 MHz Band. The Further Notice, in particular, includes requests for comment on issues relating to a contemplated nationwide broadband public safety network -- requests which are the focus of GEOCommand's comments here. In its Further Notice, the FCC considers the proposal of Frontline Wireless, LLC to combine 10 MHz of spectrum from the commercial portion of the 700 MHz band -- the so-called "E Block" -- with the 12 MHz of public safety spectrum from the 700 MHz band. According to Frontline's proposal, the eventual E Block licensee will construct and operate a shared nationwide interoperable broadband network which will serve both commercial and public safety interests, pursuant to a Network Sharing Agreement to be negotiated by the parties.

GEOCommand's comments center on the nature of the obligations of the parties with respect to the Network Sharing Agreement. GEOCommand believes that the public interest at stake is too significant to leave the negotiation of the Network Sharing Agreement to the good faith of the respective parties. Instead, the FCC should establish certain parameters to govern the Network Sharing Agreement as to issues of particular importance to the public interest, including, for example, defined thresholds for access to the network by both the public safety entities and the commercial E Block licensee (or its lessees), and defined technical features of the network (particularly with respect to coverage and redundancy). Moreover, to the extent that the parties are unable to reach an agreement, the proper arbitrator of any differences should be the FCC itself, rather than a commercial arbitrator. The FCC will almost certainly have a better understanding of the public interest issues involved and have more experience in fashioning

decisions that take into account such issues. A commercial arbitrator is much less likely to have the necessary perspective, at least with respect to public safety issues.

The FCC also requested comment on the manner in which the E Block commercial licensee's obligations under the Network Sharing Agreement and the FCC's rules will be enforced. Again, because of the unique nature of the relationship between the commercial licensee and the nationwide public safety licensee, as well as the significant public interest in ensuring the speedy construction and efficient operation of the contemplated nationwide broadband public safety network, GEOCommand believes that the Commission should adopt effective measures to ensure that the special obligations taken on by the commercial licensee are not compromised. Accordingly, in addition to the automatic cancellation of the commercial license in the event that construction deadlines are not met, the FCC should adopt provisions for the public safety entities to challenge alleged failures or deficiencies of the commercial licensee in an expeditious and efficient manner. The FCC also should take steps to protect the infrastructure utilized by public safety entities during any such challenges in order to preserve ongoing public safety operations.

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Comments of GEOCommand, Inc.

GEOCommand, Inc. ("GEOCommand"), by its counsel, hereby submits these comments on the Report and Order and Further Notice of Proposed Rulemaking released by the Federal Communications Commission ("FCC" or "Commission") on April 27, 2007.[1] Among other things, the Further Notice seeks comment on a proposal by Frontline Wireless, LLC that the

[1] Service Rules for the 698-746, 747-762 and 777-792 MHz Bands, Report and Order and Further Notice of Proposed Rulemaking, FCC 07-72 (released April 27, 2007) ("Further Notice").

FCC (i) alter the upper portion of the Upper 700 MHz Commercial Services Band to designate a 10 MHz "E Block" for a commercial license, and (ii) require the commercial licensee to construct and operate a nationwide, interoperable broadband network for sharing with a national public safety licensee providing broadband service in the lower portion of the 700 MHz Public Safety spectrum. As the relationship between the E Block licensee and the public safety licensee will be governed by a Network Sharing Agreement to be negotiated by the parties, the FCC asks whether it should adopt specific parameters for this Agreement, or whether it should leave it to the parties to work out the details. Also with respect to the E Block licensee, the FCC asks what conditions should be specified to ensure that the Network Sharing Agreement is reached quickly and what actions should be taken in the event that the commercial entity does not live up to its obligations. GEOCommand is pleased to comment on these issues set forth in the Further Notice.

I.

INTRODUCTION

A. The Frontline Proposal

GEOCommand has long been a proponent of the need to increase the spectrum available for public safety purposes, and to enhance the provision of public safety services through the establishment of a nationwide broadband public safety network. The Frontline proposal advances this goal by combining the 12 MHz of spectrum currently under consideration by the FCC for a nationwide broadband public safety network,[2] with a 10 MHz block of commercial

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[2] Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band, Ninth Notice of Proposed Rulemaking, 21 FCC Rcd 14837 (2006) ("Ninth Notice"). GEOCommand submitted comments in that proceeding, noting its concern that the 12 MHz contemplated by the FCC for a nationwide broadband public safety network was not sufficient to fulfill the goals articulated for public safety services.

700 MHz spectrum.[3] The resulting 22 MHz of spectrum potentially available for public safety use addresses many of the concerns that more spectrum is needed to effectively deploy nationwide broadband public safety services.

Under the Frontline proposal, the E Block licensee would fund and construct a common interoperable network infrastructure that could be used by both the public safety broadband network and the E Block licensee's commercial network. The E Block licensee would manage and operate the public safety broadband network, providing priority access to public safety broadband operations during times of emergency. By this proposal, Frontline addresses the ever-present funding dilemma faced by public safety licensees -- incorporating many of the elements of a "public/private partnership" first appearing in the Cyren Call proposal and echoed in the FCC's Ninth Notice. Many of the issues raised by the FCC with respect to the contemplated nationwide broadband public safety network focus primarily on the relationship between the E Block commercial licensee and the public safety licensee and consider to what degree the FCC should be involved in that relationship.

B. GEOCommand's Interest in this Proceeding

Before commenting on the FCC's proposals in this regard, it is worth describing GEOCommand's interest in this proceeding in order to understand GEOCommand's relation to

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[3] GEOCommand also supported a Petition for Rulemaking filed by Cyren Call, which proposed to utilize 30 MHz of commercial spectrum at 747-762 and 777-792 for the creation of a nationwide broadband public safety network, in part because that proposal recognized the need to devote additional substantial spectrum to public safety and focused on how best to allocate such spectrum for the creation of such a network. *Petition for Rulemaking*, filed by Cyren Call, April 27, 2006 ("Cyren Call Petition"). The Cyren Call Petition, as well as the Frontgate Petition acknowledges that the 12 MHz of existing public safety spectrum simply is insufficient for the establishment of an effective nationwide broadband public safety network -- a position with which GEOCommand agrees. Indeed, the Cyren Call proposal would not utilize *any* of the existing public safety spectrum to implement its network, although it raises other potential issues with respect to FCC authority and the impending auction of the commercial 700 MHz spectrum.

the public safety industry. GEOCommand's business is focused squarely on first responders and its interest is in promoting plans to enhance the capabilities of these responders in the most efficient and effective manner. In essence, GEOCommand is an advanced mapping data and information tool. It provides first responders with advanced GIS mobile mapping solutions, making available the timely data needed for critical field decisions.[4] GEOCommand's mobile geographic information system can be integrated with global positioning systems, computer aided dispatch and other mobile computing devices, with the ability to integrate with various communications technologies, including both the internet and wireless.[5] As a result, GEOCommand provides first responders with valuable information to enable them to respond to emergency situations and provide their services in a safe and efficient manner.

Many GIS systems display spatial information in the tabular format of a database, which can be difficult to interpret. GEOCommand's display, by contrast, is visual, with spatial data viewed in layers that combine to form an immediately understandable model of the real world. GEOCommand's first layer consists of visible geography: building footprints, pavement edges, bodies of water, and land formations. This information can be superimposed on an aerial

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[4] GEOCommand provides its equipment and software to various first responders, including in particular, fire companies, police departments, utility companies, airports, nuclear facilities, emergency medical units, bridge and tunnel authorities and at all levels of government. GEOCommand software has been used by the Los Alamos National Lab and the City of Roseville, California. The Fire Departments of the Cities of Worcester, Massachusetts and Roseville, California currently are using GEOCommand's revised product in beta-testing.

[5] A geographic information system, or GIS, is a computer application that can capture, store, analyze, and display geographically referenced information. Most emergency-related information contains a location reference, placing the information at some point on the globe. The power of a GIS comes from its ability to link, or integrate, pieces of information that are difficult to associate in any other way. For example, a GIS can combine information from different sources – maps, pre-plans, hydrant records, land records, and aerial photography – to display a road map that includes building information, water sources, topography, and visual images of the area surrounding an emergency. A GIS can analyze this information to provide visual data that includes driving directions, fall-back zones, and hazmat warnings.

photographic background. Second and third layers display the invisible geography: utilities, zoning, parcels, and special districts (fire, police, school, historic, voting, etc.). GEOCommand believes that its technology can ensure wireless connectivity capabilities at several frequencies currently in use by public safety and homeland security agencies.

In its recent Report to Congress regarding the needs of federal, state and local emergency responders, the Commission emphasized that "emergency response providers would benefit from the development of an integrated, interoperable nationwide network capable of delivering broadband services throughout the country."[6] The FCC noted several critical services potentially available via such a broadband network:[7] (i) delivery of rapid warnings and messages pertaining to criminal activity, including AMBER Alerts; (ii) video surveillance during emergency incidents; (iii) real-time text messaging and e-mail; (iv) delivery of high resolution digital images; and (v) the ability to obtain location and status information of personnel and equipment in the field. GEOCommand's service falls squarely within the scope of these contemplated services and will significantly boost the capabilities of first responders in the field.

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6 See, *Report to Congress on the Study to Assess the Short-Term and Long-Term Needs for Allocation of Additional Portions of the Electromagnetic Spectrum for Federal, State and Local Emergency Response Providers*, WT Docket No. 05-157 at p. 3 (December 16, 2005)("Public Safety Needs Report").

7 Public Safety Needs Report, at p. 14.

II.

DISCUSSION

A. The FCC Should Establish Certain Parameters To Govern The Network Sharing Agreement.

In the Further Notice, the FCC notes Frontline's view that the proposed E Block licensee and a potential national public safety licensee would have strong incentives to reach agreement on suitable terms for a lease, in that each entity would want access to the spectrum licensed to the other for their respective uses.[8] Because of these purported incentives, Frontline argues that the FCC need only impose the requirement that the E Block licensee negotiate "in good faith," and not attempt to adopt detailed rules to govern the terms of the Network Sharing Agreement.[9] And while Frontline lays out certain generalized "ground rules" necessary to create the apparent market-based incentives to reach the Network Sharing Agreement without Commission intervention,[10] a closer look at its suggested ground rules is not reassuring. In fact, the requirements urged by Frontline appear more designed to protect the commercial licensee than the public safety entity.

In addition to the somewhat amorphous requirement that the E Block licensee negotiate "in good faith" with the public safety broadband licensee for a Network Sharing Agreement, Frontline would require the commercial licensee merely "to consult with the public safety broadband licensee" on design, construction and operation of the shared network.[11] Frontline

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8 Further Notice, at para. 281.

9 Id.

10 See Comments of Frontline Wireless, LLC, *Service Rules for the 698-746, 747-762 and 777-792 MHz Bands*, WT Docket No. 06-150 (March 6, 2007) ("Frontline Service Rules Comments").

11 Frontline Service Rules Comments, at p. 15.

further notes that the E Block licensee should be required to permit "emergency preemption" by public safety users on its commercial spectrum without defining such a critical term.[12] And while Frontline specifies that the E Block spectrum should be "exclusively designated for broadband network sharing with the public safety licensee," it is not clear how this benefits the public safety community since it does not address the commercial use of the spectrum.[13] The remaining ground rules would ensure that the E Block commercial licensee had exclusive ability to use public safety broadband spectrum on a secondary and unconditionally preemptible basis (again without defining the nature of the public safety licensee's right to preempt the commercial licensee's access) and access to public safety towers and rights of way to facilitate network buildout.[14]

While suggesting no specific parameters for the Network Sharing Agreement itself, the FCC nevertheless asks whether it should impose conditions on the respective licensees to deal with the circumstance where they are unable to reach an agreement. In this regard, the FCC first proposes not to grant the commercial E Block license until the winning bidder files a completed Network Sharing Agreement, and next suggests that both the E Block commercial licensee and the national public safety licensee be required to submit to binding arbitration to resolve outstanding issues if they were unable to reach agreement.[15]

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12 Id., at p. 16.

13 Id.

14 Id.

15 Further Notice, at paras. 282-293.

1. The FCC Should Define Critical Terms of the Parties' Relationship.

GEOCommand believes that the FCC should not leave it to the parties to negotiate the Network Sharing Agreement without imposing parameters for certain terms critical to such an agreement. Even if the parties pledge to negotiate in "good faith," the establishment of a nationwide public safety network capable of providing broadband services is too important to the public interest to rely solely upon the good offices of the respective licensees to accomplish this goal. In such a negotiation, the respective parties would have significantly different perspectives on the proposed "shared" network. Presumably, the public safety licensee will seek to further public interest goals with respect to coverage of the network, access to the network, and certain technical aspects of the network. The commercial licensee, on the other hand, will be more motivated by business and/or economic justifications for these issues. Because the public safety network may require provisions that are not necessarily economical or justified from a business perspective, the FCC should step in to specify detailed parameters to regulate the agreement in these respects. Otherwise, there would be no governing principles to guide the parties and to ensure that certain terms and conditions are present in the agreement.

The issue of access to the shared network illustrates this point. Most would agree that the FCC contemplates that the public safety licensee would have priority access to the entire shared network (i.e., both the public safety and the commercial spectrum) in the event of a public safety "emergency" and that the commercial entity would have "unconditionally preemptible access" to the public safety spectrum during all times when it was not needed by the public safety entities. By leaving it to the parties to define the scope of the term "emergency" and the parameters of "unconditionally preemptible access," however, perhaps the most critical element of the relationship between the parties is left undefined. To the extent that the

commercial entity is more aggressive in its negotiations to the point that the public safety entity's proposed access to the commercial spectrum is more limited, the public interest is harmed since the whole point of this exercise is to improve the quality and effectiveness of public safety services.

GEOCommand therefore urges the Commission to consider the precise nature and scope of the term necessary to justify access of the public safety licensee to the E Block licensee's commercial spectrum. Should it be tied to defined types of events, e.g., fires, weather-related phenomena, chemical or hazardous material spills, criminal activity, etc.? Should it include reference to the number of persons potentially affected? Should it be determined by whatever the public safety entity deems to be a need for access? While unconditional access solely as defined by the public safety entity may be too problematic for the commercial entity, an excessively limited access by the public safety entity to the commercial spectrum solely as defined by the commercial licensee is equally problematic for the public safety entity. Moreover, if the commercial entity is permitted to overly limit the access by the public safety entity to the commercial spectrum, the effectiveness of the contemplated nationwide broadband public safety network -- which clearly requires more spectrum than 12 MHz of public safety spectrum -- would be threatened and the public interest undermined.

The access of the commercial entity to the public safety spectrum, on the other hand, requires a different perspective. This is public safety spectrum that should be available to public safety *at any time and for any purpose it deems necessary.* Because this spectrum has been earmarked for public safety use for some time, the public safety entities may have a myriad of on-going uses in mind for this spectrum that may not be triggered by an emergency situation, including, for example, ongoing monitoring activities with sensor nets. Accordingly,

commercial access to the public safety spectrum should be made within the sole discretion of the public safety entities. In its Ninth Notice, the FCC appeared to endorse this view by proposing that the "unconditionally preemptible access" of the commercial entity to the public safety spectrum be determined *exclusively and definitively by the public safety entity.*[16] The same position should be taken here.

2. A Commercial Arbitrator Should Not Determine The Terms Of The Network Sharing Agreement.

The FCC seeks comment on whether it should require the parties to submit to binding arbitration in the event they are unable to come to an agreement.[17] GEOCommand is concerned that a commercial arbitrator would not adequately account for the public interest issues that clearly fall within the purview of the FCC. An arbitrator could take an existing commercial agreement and interpret the terms within the context of the commercial market for the spectrum and the services to be provided over the network. Such an arbitrator may not be the best choice, however, to adequately understand and apply the history and the needs of public safety and the special responsibility of the FCC to further the public interest by ensuring that public safety services are adequately protected, preserved and furthered. To place into a commercial arbitrator's hands the power to determine the terms and conditions of a Network Sharing Agreement favors the commercial entity unduly. The FCC has the most relevant experience with respect to the public interest issues at stake, and therefore, should remain the ultimate arbitrator of the basic terms of the agreement.

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16 Ninth Notice, 21 FCC Rcd at para. 41 ("The national public safety licensee would have the unfettered right, which cannot be compromised or contracted away, to unilaterally determine when a secondary commercial use must be discontinued in the interests of public safety.")

17 Further Notice, at para. 283.

The FCC's proposal to condition the license of the E Block winning bidder on the successful completion of the Network Sharing Agreement is more consistent with this view.[18] Such a condition imposes a powerful incentive on the commercial entity to get the deal done in a manner which is fair and acceptable to the public safety licensee.[19] While the same license condition need not apply to the public safety licensee, it too would be required to submit to the FCC's resolution of the parties' impasse if an agreement has not been reached within a certain period of time.[20]

B. The FCC Should Adopt Protective Measures To Ensure Ongoing Compliance With Its Service Rules Regarding the Shared Public Safety Network.

The FCC also asks whether any service specific rules are needed to specify actions the FCC may or must take in the event that the E Block commercial licensee is unable to comply with its obligations under the Network Sharing Agreement and the FCC's rules regarding build-out or other duties.[21] Frontline would limit enforcement of the commercial licensee's obligations to the Commission's general authority to reclaim and re-auction spectrum where the licensee fails to comply with certain obligations deemed sufficiently important to warrant license forfeiture. GEOCommand submits that these provisions are not sufficient to adequately

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18 Further Notice, at para. 282.

19 The FCC also asks whether it should require that the Network Sharing Agreement be reached by a particular date. Further Notice, at para. 283. GEOCommand believes that a reasonable deadline should be imposed, to be followed by submission to the FCC for resolution of the matter (rather than a commercial arbitrator). Similarly, however, the FCC should specify a self-imposed deadline for its resolution of the matter in order to ensure the prompt implementation of the contemplated shared network. GEOCommand also would support regular status reports to the Commission on the progress of the negotiations.

20 This, as opposed to submission to binding commercial arbitration.

21 Further Notice, at para. 289. This inability to comply may result from a variety of causes, financial difficulties, scheduling problems, supplier shortages, etc. Some of these causes may be within the control of the commercial licensee and others may be out of its control.

protect the public safety licensee. In this instance, failure on the part of the commercial licensee affects not only its own contemplated network, but the nationwide broadband public safety network as well. Accordingly, the public interest at stake is far greater and warrants the adoption of additional measures to ensure that the commercial licensee stays on course, and that if it does not, swift action is taken to protect the larger public interest.

A primary consideration in any enforcement action is the time required to complete the process. Frontline's proposal that the Commission rely solely upon the FCC's existing authority to reclaim and re-auction spectrum would doom the public safety network to years of contentious litigation. While there is no desire to trample on the rights of the commercial licensee, the commercial licensee should understand at the outset of the licensing process that it is taking on special obligations that cannot be compromised and which may carry special enforcement measures.

The Commission has instituted requirements in other proceedings that licenses would cancel automatically if certain obligations are not met within specified time frames.[22] Such a measure has ensured a more speedy process for the reclaiming and re-auctioning of spectrum. While a similar measure would seem warranted here, more assurances are needed. Because of the unique sharing arrangement in place and the strong public interest in ensuring the construction and effective operation of a nationwide broadband public safety network, public safety entities should have a special ability to challenge the commercial licensee to ensure

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[22] See, e.g., 47 C.F.R. §1.946(c) (if a licensee in specified wireless radio services fails to commence service or operations by the expiration of its construction period or to meet its coverage or substantial service obligations by the expiration of its coverage period, its authorization terminates automatically, without specific Commission action, on the date the construction or coverage period expires, unless the rules specific to the particular wireless service at issue states otherwise); See also 47 C.F.R. §90.767(c) (failure by an EA or Regional licensee in the 220-222 MHz Service to meet applicable construction requirements will result in automatic cancellation of its entire EA or regional license); 47 C.F.R. §90.769(c) (failure by a nationwide licensee in the 220-222 MHz Service to meet applicable construction requirements will result in automatic cancellation of its entire nationwide license).

compliance with its public safety obligations. Such challenges should be placed on a "fast track" for resolution to quickly identify and resolve problems with the implementation of the shared network.

The Commission should also ensure that any difficulties experienced by the commercial operator would not compromise the ongoing operation of the nationwide broadband public safety network. In this regard, GEOCommand agrees with the FCC's suggestion that it should hold any network infrastructure built by the licensee in trust for public safety to avoid interruption of service to first responders. While certain measures and time restrictions may also be needed to protect the rights of the commercial licensee as well, the FCC's priority in this instance should be to preserve the ongoing public safety operations until alternative arrangements can be made.

The adoption of rules to establish this unique sharing concept can be an effective way to ensure the construction and operation of a public safety network, while still ensuring the efficient use of available spectrum. It also works within the established parameters governing the auctioning and allocation of spectrum. Because public safety issues are involved, however, the FCC must take those additional steps to ensure that the public safety network is adequately protected and that services critical to the public interest are not compromised.

III.

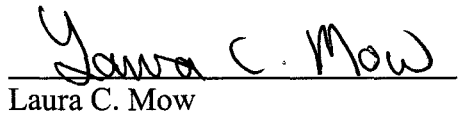
CONCLUSION

The Further Notice takes a comprehensive look at the needs of the public safety industry and proposes innovative solutions to the technical, interoperability and financial hurdles facing our first responders. The combination of the 12 MHz of existing public safety spectrum with the 10 MHz E Block derived from the commercial spectrum addresses concerns that 12 MHz is

simply not sufficient for deployment of an effective nationwide broadband public safety network. The shared network also incorporates enough elements of a public/private partnership to overcome many of the funding hurdles historically facing public safety entities. The adoption of a proposal such as that put forth here, however, also carries a special responsibility to adopt further measures needed to protect the higher public interest at stake. In this regard, the FCC must consider specific parameters to govern the Network Sharing Agreement so that the parties have sufficient guidelines in their negotiations. In addition, the FCC must include sufficient enforcement measures to assure that the public safety network will be constructed in a timely fashion and will operate effectively without disruptive interruptions.

Respectfully submitted,

GEOCOMMAND, INC.

By: 

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